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Construction Company, Inc.*

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

WULFENSTEIN CONSTRUCTION  
COMPANY, INC., AND UNITED STATES  
FOR THE USE OF WULFENSTEIN  
CONSTRUCTION COMPANY, INC., a  
Nevada corporation,

Plaintiff,

vs.

HERBACK GENERAL ENGINEERING, LLC,  
a Nevada limited liability company;  
TRAVELERS CASUALTY AND SURETY  
COMPANY OF AMERICA, a Connecticut  
corporation; DOES 1 – 10, inclusive,

Defendants.

Case No. 2:17-cv-01182-APG-NJK

**STIPULATION AND ORDER TO  
EXTEND DISCOVERY  
DEADLINES PENDING THE  
OUTCOME OF MEDIATION**

**(FIRST REQUEST)**

This is the first stipulation to extend discovery deadlines. Pursuant to LR IA 6-1 and LR 26-4, the parties, by and through their respective counsel of record, hereby stipulate and request that this Court extend discovery deadlines in this matter. In support of this Stipulation and Request, the parties state as follows:

1 (a) Discovery Completed to Date:

2 The parties have completed initial disclosures and document exchanges. The parties have  
3 also engaged in written discovery, propounding requests for production, interrogatories, and  
4 requests for admission, for which responses have been made. The parties are continuing to  
5 discuss disputes related to the responses made to this initial round of written discovery and have  
6 exchanged meet and confer positions on the items of dispute. The parties believe that any  
7 disputes related to the initial round of written discovery can be resolved without court  
8 intervention.

9 (b) Discovery that Remains to be Completed:

10 The parties contemplate taking the depositions of the principal employees of each party.  
11 The parties also contemplate an additional round of written discovery, should the parties be  
12 unable to resolve this dispute at mediation. Once completed, the parties will proceed with  
13 obtaining expert witness opinions on the dates and time permitted herein. Some third-party  
14 discovery may be required, through subpoenas or depositions.

15 (c) The reasons why discovery will not be completed prior to the existing deadlines.

16 Based on the initial disclosures and exchanges and upon the responses to written  
17 discovery, the parties have agreed to (and have scheduled with Robert F Enzenberger, Esq.), a  
18 mediation. An extension of the current discovery deadlines will allow the parties to privately  
19 mediate the matter as contemplated in the Joint Interim Status Report [Dkt 20] (initial mediation  
20 scheduled for December 15, 2017), will preserve the status quo, and will minimize the expense  
21 of the parties' resources and those of the Court until such mediation can be concluded.  
22 *Mediterranean Enterprises, Inc. v. Ssangyong Corp.*, 708 F.2d 1458, 1465 (9th Cir. 1983).  
23 Additionally, it will prevent the risk of the court needlessly expending its energies to further  
24 manage the case when the case may well settle as a result of the parties' own accord at the  
25 upcoming mediation. *Sommers v. Cuddy*, 2013 U.S. Dist. LEXIS 12430 (D.Nev. 2013).  
26 Discovery should be continued as stipulated between the parties to allow for a full and complete  
27 effort to mediate this dispute. Because no trial date has yet been set by the Court in this matter,  
28 and because the parties and their attorneys are available for trial in or after November of 2018, as  
disclosed in the Joint Interim Status Report [Dkt 20], the extension requested is appropriate.

1 (d) Proposed Schedule for Completing remaining Discovery.

- 2 i. The expert disclosure deadline should be extended up to and including **April**  
3 **30, 2018.**
- 4 ii. The rebuttal expert disclosure deadline should be extended up to and  
5 including **May 30, 2018.**
- 6 iii. The close of discovery deadline should be extended up to and including **July**  
7 **1, 2018.**
- 8 iv. The dispositive motion deadline should be extended up to and including **July**  
9 **31, 2018.**
- 10 v. The parties will file their joint pre-trial order (including FRCP 26(a)(3)  
11 disclosures) no later than 30 days after the deadline for dispositive motions.  
12 But, if there are dispositive motions pending at that time, the parties shall file  
13 the joint pre-trial order 30 days after the Court has decided any pending  
14 dispositive motions.

15 For the reasons stated herein, the parties hereby request the Court's order affirming the  
16 stipulated extension of the discovery deadlines to assist the parties in their effort to mediate this  
17 matter.

18 DATED: December 7, 2017.

DATED: December 7, 2017.

19 DELEE LAW OFFICES, LLC

MOORE LAW GROUP, PC

20 /s/ Michael M. DeLee

/s/ John D. Moore

21 Michael M. DeLee, Esq.

John D. Moore, Esq.

22 Nevada Bar No. 11948

Nevada Bar No. 8581

23 Attorney for Plaintiff

Attorney for Defendants

24 IT IS SO ORDERED.

25   
26 UNITED STATES MAGISTRATE JUDGE

27 DATED: December 8, 2017